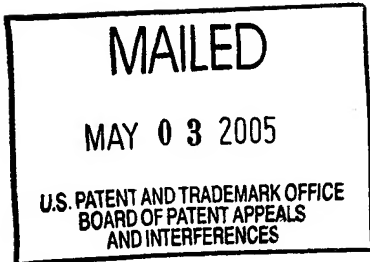


UNITED STATES PATENT AND TRADEMARK OFFICE



\_\_\_\_\_  
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
\_\_\_\_\_

Ex parte RAINER KIEFER  
\_\_\_\_\_

Application 10/069,636  
\_\_\_\_\_

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER  
\_\_\_\_\_

This application was electronically received at the Board of Patent Appeals and Interferences on March 8, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

On August 19, 2004, the "Rules of Practice before the Board of Patent Appeals and Interferences" were printed in the Federal Register (69 Fed. Reg. 49959, final rule). These rules became effective on September 13, 2004. A Reply Brief was filed under the new rules on February 16, 2005 (§ 41.41).

Section 41.43 reads as follows:

§ 41.43 Examiner's response to reply brief.

(a) (1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

(2) A supplemental examiner's answer responding to a reply brief may not include a new ground of rejection.

(b) If a supplemental examiner's answer is furnished by the examiner, appellant may file another reply brief under § 41.41 to any supplemental examiner's answer within two months from the date of the supplemental examiner's answer.

(c) Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136(b) of this title for extensions of time to reply for patent applications.

There is no indication in the record regarding whether or not the examiner has considered the Reply Brief. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the

Examiner:

Application 10/069,636

1. for consideration and proper response to the Reply Brief filed February 16, 2005; and
2. for such further action as may be appropriate.

BOARD OF PATENT APPEALS

AND INTERFERENCES

By: 

DALE M. SHAW  
Program and Resource Administrator  
(571) 272-9797

DMS/psb/pb

cc: Simpson & Simpson PLLC  
5555 Main Street  
Williamsville, NY 14221